

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anthony Cennamo	Team: Squad #5	CCRB Case #: 201606783	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/31/2016 5:00 AM	Location of Incident: Stanley Avenue and Essex Street.	Precinct: 75	18 Mo. SOL 1/31/2018	EO SOL 1/31/2018	
Date/Time CV Reported Mon, 08/01/2016 8:40 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 08/08/2016 10:59 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SSA Robert Martinez	01369	922716	075 PCT
2. POM David Quattrocchi	15010	952133	075 PCT
3. POM Matthew Demaio	23579	952663	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA Robert Martinez	Abuse: Sergeant Robert Martinez stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM David Quattrocchi	Abuse: Police Officer David Quattrocchi stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Matthew Demaio	Abuse: Police Officer Matthew Demaio stopped the vehicle in which § 87(2)(b) was an occupant.	
D.SSA Robert Martinez	Abuse: Sergeant Robert Martinez searched § 87(2)(b)	
E.POM Matthew Demaio	Abuse: Police Officer Matthew Demaio searched § 87(2)(b)	
F.POM Matthew Demaio	Abuse: Police Officer Matthew Demaio searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM David Quattrocchi	Abuse: Police Officer David Quattrocchi searched the vehicle in which § 87(2)(b) was an occupant.	
§ 87(4-b) § 87(2)(g)		
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### Case Summary

§ 87(2)(b) filed this complaint with 311 via email which was forwarded to IAB on August 1, 2016, generating log number 16-27159. The complaint was received at the CCRB on August 8, 2016 via log number 2016-27503.

On July 31, 2016 at approximately 5:00 a.m., § 87(2)(b) was released from § 87(2)(b) in Brooklyn and entered his vehicle, a 2004 black GMC pickup truck. § 87(2)(b) drove approximately five miles per hour on Cozine Avenue to search for a parking spot when an unmarked vehicle passed him in the opposite lane and made a U-turn to follow behind him. Approximately five minutes passed before the unmarked vehicle, a black Chevy Impala four door sedan, turned on its safety lights to signal § 87(2)(b) to pull over and § 87(2)(b) stopped the vehicle in the middle of the street on Cozine Avenue (**Allegations A-C**). Three officers in plainclothes with shields that hung from their necks approached § 87(2)(b) car. The officers, identified by the investigation to be Sgt. Robert Martinez and PO Matthew Demaio of the 75<sup>th</sup> Precinct, approached the driver side and passenger side of § 87(2)(b) vehicle, respectively. PO David Quattrocchi stood near the back end of § 87(2)(b) vehicle, where he observed a small square object held in his hand. Sgt. Martinez informed § 87(2)(b) he was stopped for a broken tail light which § 87(2)(b) argued was not broken as he had just checked before getting into his vehicle after he left the hospital. § 87(2)(b) is a mechanic that owns his own business and stated he always checks his vehicle before he drives it. § 87(2)(b) reached into his right breast pocket which contained his wallet, removed his driver's license from said wallet and handed his license to Sgt. Martinez after he was asked to produce identification. Sgt. Martinez then asked § 87(2)(b) to step out of the vehicle.

§ 87(2)(b) placed the wallet back into his breast pocket as he stepped out of the vehicle when Sgt. Martinez grabbed the wallet from inside that right breast pocket, opened it, removed a debit card and walked away toward the unmarked vehicle (**Allegation D**). While Sgt. Martinez walked away, PO Demaio approached § 87(2)(b) and reached into his back left pants pocket and pulled out his gloves (**Allegation E**). PO Demaio handed back the gloves to § 87(2)(b) and Sgt. Martinez returned § 87(2)(b) debit card to him. § 87(2)(b) did not face the vehicle, but heard two officers opening up car doors and searching inside as he spoke with Sgt. Martinez about the hospital bracelet that he wore on his wrist (**Allegations F and G**). Sgt. Martinez told § 87(2)(b) he was not allowed to turn around to see what PO Demaio and PO Quattrocchi were doing and § 87(2)(b) complied. § 87(2)(b) estimated that the search lasted for 30 minutes before PO Demaio and PO Quattrocchi told Sgt. Martinez they were finished. § 87(2)(b) knew a search took place as the vehicle doors were left open except for the back driver's side and his belongings were strewn about all over the car. § 87(2)(b) was not summonsed or arrested as a result of this incident. § 87(2)(b) alleged that two pieces of equipment he frequently uses for his occupation were stolen from his vehicle as a result of the search; a cordless angle grinder and a diagnostic tool, worth approximately \$2500 and \$100 respectively. § 87(2)(g)

There is no video footage that exists of this incident.

### Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to allegations of stolen property that were referred to IAB.
- As of September 22, 2016, a request was submitted to discover if § 87(2)(b) had filed a notice of claim and will be added to the case file upon receipt.



**Allegation B – Abuse of Authority: Police Officer David Quattrocchi stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation C – Abuse of Authority: Police Officer Matthew Demaio stopped the vehicle in which § 87(2)(b) was an occupant.**

On July 31, 2016 at approximately 5:00 a.m. on Stanley Avenue and Essex Street in Brooklyn, § 87(2)(b) was stopped by an unmarked vehicle that was driven by PO Quattrocchi and occupied by Sgt. Martinez in the front passenger seat and PO Demaio behind the driver's seat. It is undisputed that § 87(2)(b) was driving approximately five miles per hour down Stanley Avenue when an unmarked black Chevy Impala passed him on the opposite side of the road and made a U-turn directly behind him. § 87(2)(b) stated that he drove slowly in order to find a parking space because the area was poorly lit and he slowed down even more to give the officers in the unmarked vehicle behind him a chance to pass him, as he was not aware yet that he was being stopped. § 87(2)(b) was also just released from § 87(2)(b) in Brooklyn shortly before this incident occurred and was exhausted from his experience in the hospital. § 87(2)(b) looked in his rear view mirror when he realized the officers did not pass him and saw their safety lights were turned on to signal him to stop, which he did so immediately in the middle of the street. § 87(2)(b) was told that he was stopped for a broken tail light and did not recall if any officer mentioned another reason as to why he was stopped. § 87(2)(b) observed PO Demaio, PO Quattrocchi and Sgt. Martinez all exit their vehicles to approach § 87(2)(b) after he was stopped. § 87(2)(b) kept his vehicle on and had all of his windows rolled down.

From the back seat behind PO Quattrocchi, PO Demaio observed § 87(2)(b) driving at approximately five miles per hour on Stanley Avenue during their routine patrol. PO Demaio denied that their unmarked vehicle made a U-turn to intentionally follow § 87(2)(b) at any point during the incident. PO Demaio noticed that § 87(2)(b) had a broken tail light after he was stopped and mentioned this to PO Quattrocchi and Sgt. Martinez. As both vehicles were stationary and before PO Demaio exited the backseat, PO Demaio observed § 87(2)(b) reach down to the floor of the vehicle with his right arm and was not visible for approximately two minutes before he returned to a normal seated position. PO Demaio noted this action to Sgt. Martinez and PO Quattrocchi, but did not recall what the conversation was regarding this observation or what they observed in regards. PO Demaio exited the backseat of the vehicle and approached § 87(2)(b) vehicle. Before PO Demaio reached the driver's side window of § 87(2)(b) vehicle, he stated during his interview at the CCRB that he smelled a strong odor of marijuana, but did not vocalize this to any other officer on the scene.

Sgt. Martinez agreed that the area around Stanley Avenue was poorly lit and that § 87(2)(b) drove approximately five miles an hour. Sgt. Martinez explained that the vehicle he was in never made a U-turn at any point and stopped § 87(2)(b) because he was going approximately five miles an hour. Sgt. Martinez noted that after himself, PO Quattrocchi and PO Demaio stopped § 87(2)(b) he noticed the broken tail light on the back of § 87(2)(b) vehicle. Sgt. Martinez did not recall whether he was the first officer to notice this or if another officer observed this before they stopped § 87(2)(b). Sgt. Martinez thought about the information they received throughout the day about commercial trucks being burnt down in the vicinity of Stanley Avenue. Sgt. Martinez observed these trucks in the area and noticed that § 87(2)(b) drove slowly past the trucks that were still present and burnt down on Stanley Avenue. In his experience, Sgt. Martinez noted that arsonists enjoy looking at their work after it is completed and believed § 87(2)(b) to possibly be the arsonist in this case as it appeared he was

viewing the damage of the burnt down commercial trucks based on the slow speed at which he travelled. Sgt. Martinez did not recall who made the decision to stop the vehicle and believed it to be implied that the officers all knew the vehicle had to be stopped for impeding traffic. Sgt. Martinez exited the vehicle and approached § 87(2)(b) truck on the front passenger side. Like PO Demaio, before Sgt. Martinez reached the window of § 87(2)(b) vehicle, he smelled a strong odor of marijuana. Sgt. Martinez did not recall if he mentioned this to any other officer on the scene and only referenced this observation during his interview at the CCRB.

PO Quattrocchi corroborated the fact that § 87(2)(b) drove approximately five miles per hour down Stanley Avenue and impeded traffic in doing so. PO Quattrocchi did not see § 87(2)(b) broken tail light before PO Demaio pointed this observation out first. PO Quattrocchi did not think about the arsons in the area and connect them to § 87(2)(b) before he was stopped. PO Quattrocchi did not hear any other office mention that § 87(2)(b) may have been suspected of arson before he was stopped. PO Quattrocchi did not recall specifically who ultimately decided to stop § 87(2)(b) and agreed that it was a unanimous decision based upon § 87(2)(b) traveling speed, which he agreed was approximately five miles per hour.

According to VTL 1181 (a), “No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.”

§ 87(2)(g)

[REDACTED]

**Allegation D- Abuse of Authority: Sergeant Robert Martinez searched § 87(2)(b)**

According to § 87(2)(b) a bald Hispanic male, Sgt. Martinez, approached on the driver side of the vehicle and a bald white officer approached on the passenger side, PO Demaio. PO Quattrocchi, the only officer with black hair on the scene, stood near the rear of his vehicle. § 87(2)(b) spoke with the officer on the driver’s side about where he was coming from and explained that he was just released from § 87(2)(b) in Brooklyn a few blocks away. This conversation was determined by the investigation to have actually occurred with PO Demaio, as PO Demaio and PO Quattrocchi admitted that PO Demaio approached on the driver’s side and Sgt. Martinez stated he approached the passenger side. § 87(2)(b) showed PO Demaio his hospital bracelet, but PO Demaio expressed that he did not believe him. PO Demaio told § 87(2)(b) he was stopped for a broken tail light and did not give any other reason for the stop. PO Demaio then asked to see his driver’s license, which § 87(2)(b) kept in his wallet. § 87(2)(b) reached into the right breast pocket of his green mechanics jumpsuit to retrieve his wallet, removed his identification from it and handed it back to PO Demaio. § 87(2)(b) was

then asked by PO Demaio to step out of the vehicle, an order that § 87(2)(b) complied with immediately. At this point, both PO Demaio and Sgt. Martinez were on the driver's side of the vehicle with § 87(2)(b). § 87(2)(b) alleged that the bald Hispanic male officer, Sgt. Martinez, then immediately reached into § 87(2)(b) right breast pocket, took his wallet, opened it and removed his debit card. Sgt. Martinez then said, "This is what we're looking for" and walked toward the unmarked vehicle for approximately ten minutes with § 87(2)(b) debit card before he returned. § 87(2)(b) did not see exactly where Sgt. Martinez went and he did not ask or find out why Sgt. Martinez did so. § 87(2)(b) did not say during his interview that any officer on the scene mentioned an odor of marijuana to him or one another at any time during the incident.

According to Sgt. Martinez, he smelled a strong odor of marijuana as he stood by the passenger side window. Sgt. Martinez was not the officer who asked to see § 87(2)(b) identification, as Sgt. Martinez was not the officer who approached § 87(2)(b) vehicle on the driver side. Before § 87(2)(b) was asked to step out of the vehicle by PO Demaio, Sgt. Martinez asked § 87(2)(b) where he was coming from, knowing that he said § 87(2)(b) a few moments earlier when asked by PO Demaio. § 87(2)(b) responded with a name of another hospital, which Sgt. Martinez could not recall, but was suspicious of the inconsistency. Sgt. Martinez recalled that the officer on the driver's side asked § 87(2)(b) to step out of the vehicle at that point, but only learned why after the conclusion of this incident, which was explained to him as a fear for safety. Sgt. Martinez did not reach into § 87(2)(b) pocket to retrieve his wallet or remove his debit card and did not see any other officer do so at any point. Sgt. Martinez did not mention to § 87(2)(b) at this point that he smelled marijuana, which persisted throughout the incident.

According to PO Demaio, he smelled a strong odor of marijuana as he stood at the driver's side window and immediately asked him where he was coming from so early in the morning. § 87(2)(b) told PO Demaio § 87(2)(b) as he was admitted last night and just released. PO Demaio testified that he was the officer who asked § 87(2)(b) for his driver's license while PO Quattrocchi appeared next to PO Demaio from the unmarked police vehicle after he located a working smartphone. PO Demaio handed § 87(2)(b) driver's license to PO Quattrocchi and PO Quattrocchi walked toward the back end of § 87(2)(b) vehicle, near the trunk. Sgt. Martinez asked where § 87(2)(b) was coming from once again while PO Demaio handed the driver's license to his partner. This time, § 87(2)(b) slowly responded with a different hospital name that was inconsistent with what he said a few moments prior. PO Demaio then asked § 87(2)(b) where he was going and did not recall his response. PO Demaio noticed as he spoke with § 87(2)(b) that his responses were delayed, he made strange and sudden hand movements in front of his face and looked around with his eyes nervously. PO Demaio noted that § 87(2)(b) also spoke in a low tone of voice that was barely audible. § 87(2)(b) kept his vehicle on throughout this interaction. PO Demaio asked § 87(2)(b) to step out of the vehicle because he feared for his safety and Sgt. Martinez did not move from his position on the passenger side of the vehicle as § 87(2)(b) willingly stepped out of his vehicle in compliance. PO Demaio denied that Sgt. Martinez reached into § 87(2)(b) breast pocket to retrieve his wallet and did not see any other officer do so or take that action himself. PO Quattrocchi did not see the interaction that led up to § 87(2)(b) being asked to step outside of the vehicle and did not see any officer reach into § 87(2)(b) breast pocket to retrieve his wallet. PO Quattrocchi did not take that action himself, as he remained near the back end of the vehicle to complete the check of § 87(2)(b) license. Both PO Demaio and Sgt. Martinez did

not mention to § 87(2)(b) that he smelled marijuana coming from his vehicle at any point and PO Quattrocchi did not recall an odor of marijuana at the scene at any point.

§ 87(2)(g)

**Allegation E – Abuse of Authority: Police Officer Matthew Demaio searched § 87(2)(b)**

According to § 87(2)(b) after he was asked to step out of the vehicle and Sgt. Martinez allegedly returned with his debit card, it was also alleged that Sgt. Martinez reached into § 87(2)(b) left pants pocket immediately upon his return and removed a pair of mechanics gloves that he carried inside said pocket. The insides of the gloves were opened and Sgt. Martinez looked inside without placing his hands in either glove and immediately returned them to § 87(2)(b) who placed these gloves back into his pocket.

According to PO Demaio, he was the officer who searched § 87(2)(b) pants pocket and removed that gloves. After PO Demaio asked § 87(2)(b) for his identification and handed it to PO Quattrocchi, he asked § 87(2)(b) to step out of the vehicle because he feared for his safety. PO Demaio feared for his safety because § 87(2)(b) did not turn his car off, moved his hands around his face at random intervals, did not respond immediately or consistently to questions that were asked, and looked around the area nervously. PO Demaio asked § 87(2)(b) to step out of the vehicle, an order that § 87(2)(b) complied with immediately. PO Demaio observed a bulge in § 87(2)(b) left pants pocket, which he observed was created by mechanics gloves that hung over that same pocket. PO Demaio reached into the pocket, removed the gloves and looked inside them. PO Demaio did this because he believed the gloves could be used to conceal a weapon inside of § 87(2)(b) pants pocket, but did not see any bulge that indicated a weapon could have been inside that pocket. Sgt. Martinez walked around the front of the vehicle while the search of the inside of the gloves took place and stood beside PO Demaio as he handed the gloves back to § 87(2)(b). PO Quattrocchi returned § 87(2)(b) driver's license to him at this point and informed PO Demaio that § 87(2)(b) was previously arrested for arson.

According to Sgt. Martinez, while PO Demaio handed § 87(2)(b) driver's license to PO Quattrocchi, he listened to the conversation that took place between PO Demaio and § 87(2)(b). PO Demaio asked § 87(2)(b) where he was going and Sgt. Martinez did not recall what § 87(2)(b) response was. Sgt. Martinez observed the same behavior of § 87(2)(b) that was noted by PO Demaio during this conversation, which led to § 87(2)(b) being asked to step outside of the vehicle by PO Demaio. At this point, Sgt. Martinez looked toward the backseat of the vehicle and saw materials that were placed in the middle of the backseat in plain view. These materials were two gas cans and a bottle of baby powder. While looking through the front windows, Sgt. Martinez then saw PO Quattrocchi hand § 87(2)(b) his license back and Sgt. Martinez walked around the front of the vehicle to tell PO Demaio and PO Quattrocchi what he observed in the back seat. Sgt. Martinez did not see PO Demaio reach into § 87(2)(b) pocket directly and did not recall if PO Demaio searched § 87(2)(b) at any point.





informed him he observed two gas cans in the back seat through the passenger side window, which contained white liquid inside them and a bottle of baby powder. Sgt. Martinez explained that these materials could be used to ignite a flame if used properly. PO Demaio walked around the front of § 87(2)(b) vehicle to the front passenger side and opened the door. PO Demaio denied that PO Quattrocchi followed him to search the vehicle and did not see any other officer enter the vehicle at any point besides him. PO Demaio stated that he was going to search the vehicle for evidence of marijuana based on the smell of marijuana that persisted throughout the incident. PO Demaio looked underneath the front passenger seat and checked the floor of the front passenger area. PO Demaio then leaned further into the vehicle over the center console and checked in between the center console and driver's seat where PO Demaio observed § 87(2)(b) lean down during the initial stop. PO Demaio recovered a lighter, which may have been the object that § 87(2)(b) placed on the floor. PO Demaio then opened the center console and glove compartment but did not recover anything. Before PO Demaio exited the vehicle, he looked in the backseat to observe what Sgt. Martinez said he saw. PO Demaio observed two gas cans with white liquid and a bottle of baby powder. PO Demaio noted that, as he got closer to the two gas cans, they smelled like rubbing alcohol. PO Demaio then exited the vehicle and closed the front door. PO Demaio saw that PO Quattrocchi was looking through the window of the trunk with his flashlight but did not recall what he saw. After that, PO Demaio decided that there was not enough evidence to arrest § 87(2)(b) for arson and used his discretion not to issue him a summons with Sgt. Martinez's approval.

PO Quattrocchi did not see the events that led up to § 87(2)(b) being asked to step out of the vehicle and did not recall if he smelled marijuana during the incident. PO Quattrocchi was told later on by Sgt. Martinez and PO Demaio that they smelled marijuana when they approached the vehicle and for a period of time thereafter. After PO Quattrocchi checked § 87(2)(b) license, he returned to the driver's door where § 87(2)(b) stood and handed him back his license. PO Quattrocchi informed PO Demaio that he was previously arrested for arson and Sgt. Martinez returned from the front of the vehicle and told PO Demaio and PO Quattrocchi what he observed in the backseat. PO Demaio went to the passenger side of the vehicle and searched the front seat, but did not recall what areas he searched. Sgt. Martinez spoke to § 87(2)(b) about where he was going and what his occupation was, but PO Quattrocchi did not recall details of the conversation. PO Quattrocchi walked around to the back of § 87(2)(b) vehicle and looked through the trunk window with his flashlight. PO Quattrocchi observed a milk crate filled with equipment that PO Quattrocchi could not identify, but did not look suspicious. PO Demaio concluded his search approximately at the same time and determined that they did not have enough evidence to arrest § 87(2)(b) for arson. PO Quattrocchi agreed and he entered his unmarked vehicle with PO Demaio and Sgt. Martinez. PO Quattrocchi denied that he searched the vehicle at any point during the incident and only saw PO Demaio do so at any point.

Sgt. Martinez provided a statement that mostly consistent with what PO Quattrocchi and PO Demaio provided. Sgt. Martinez returned to the driver's side where PO Demaio, PO Quattrocchi and § 87(2)(b) stood. § 87(2)(b) asked him if officers were going to search the vehicle when PO Demaio walked around the front of the vehicle to the passenger side. Sgt. Martinez asked § 87(2)(b) questions about where he was going and why he was admitted into the hospital. He did not recall if PO Demaio or PO Quattrocchi searched the vehicle at any point and only learned later that PO Demaio and PO Quattrocchi saw equipment in the trunk of the vehicle through the window. Sgt. Martinez was not sure if the officers said this equipment was contained in a milk crate or not. Sgt. Martinez was then asked if they should let § 87(2)(b) go

because they did not have enough evidence to arrest him, to which he agreed. PO Demaio also asked for Sgt. Martinez's approval not to summons § 87(2)(b) to which Sgt. Martinez also agreed. Sgt. Martinez stated that the entire incident only lasted approximately 10 minutes.

According to People v. Johnson 901 N.Y.S 2d 909, the smell of marijuana and cloud of smoke seen in a vehicle is sufficient enough to provide police who are trained and experienced in the use of marijuana with probably cause to search a vehicle and its occupants.

§ 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

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Squad: 5

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date